

Application No. 10/029354
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Amendment
Attorney Docket No. S63.2N-6748-US04

Amendments To The Drawings:

None.

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Remarks

This Amendment is in response to the Office Action dated February 3, 2005.

Elections/Restrictions

Firstly, Applicant has reviewed the Examiner's comments regarding the Restriction Requirement. The first restriction requirement mailed May 28, 2004 referred to two species, species I concerning protectors with one sleeve and species II concerning protectors with two sleeves. Applicant elected species I, and identified claims 1-16 and 35-52 as one sleeved protectors. A second, further restriction requirement was then made, mailed September 23, 2004, referring to Species 1 and Species II, having subspecies 1 and 2. It appeared from the layout of the restriction that Species 1 was simply claims 1-16; and that Species II, claims 35-51, were divided between Subspecies 1 (one sleeve) or Subspecies 2 (two sleeves).

Applicant elected to prosecute Species 1, claims 1-16 with traverse. Applicant explained that both new Species I and new Subspecies 1 included protectors with a single sleeve and that the difference was whether a stent was also included. It was understood by Applicant that subspecies 1 referred to claims 35-52.

The instant Office Action notes Applicant's confusion and apparently is stating that each of the two Species, I and II, had subspecies 1 and 2. The final requirement appears to be that claims 1-16 are readable on species 1 and on subspecies 2 which the restriction requirement stated are protectors with two sleeves, which are to two sleeves. This does not make sense so Applicant assumes that the requirement is finally that only single sleeve protectors without a stent are being examined. Applicant acknowledges the final requirement.

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Information Disclosure Statement

The form 1449 has been resubmitted with all of the information requested in the Office Action filled in the blanks.

Double Patenting

Claims 1-16 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over US Patents 6,152,944 and 6,416,529. A Terminal Disclaimer is attached to traverse those rejections.

Claims 1, 2, 3, 8 and 9 §102(b) Keith et al US 5015231

Claims 1, 2, 3, 8 and 9 were rejected as being anticipated by Keith et al, U.S. Patent 5,015,231 ('231). Keith et al., U.S. Patent 5,015,231 shows a slit 58 which does not extend between the first and second ends. Rather, Keith et al. employs a partial slit that stops short of a shoulder 56 and a narrow distal section 52. It is submitted that the claims, as amended, are neither anticipated nor made obvious by Keith since Keith does not teach or suggest a slit extending between both ends.

Claims 1-3, 8-12 and 16 §102(b) Wiktor US 4,649,922

Claims 1-3, 8-12 and 16 were rejected as being anticipated by Wiktor, US Patent 4,649,922 ('922). The '922 patent is directed to a stainless steel spring prosthesis 6 which is left in a body lumen. It is held in a compressed position prior to being deployed and is then allowed to expand to become a liner for an afflicted vessel (Column 3, line 46 to Column 4, line 7). This spring is made of metal and does not provide a compressive force on an expandable member as in the instant claims. As such, Wiktor does not anticipate the claims. In addition, nothing in

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Wiktor provides any suggestion of a device that is not left in the body, has a slit running its length and provides compressive forces on an expandable body thereunder. The rejection is traversed.

Claims 4-7 §102(e) Traxler et al. US 6283743

Claims 4-7 were rejected as being anticipated by Traxler et al, U.S. Patent 6,283,743 ('743). These claims depend from Claim 1. Nothing in Traxler et al. anticipates nor suggests a sleeve having a slit through the entire length. The dependent claims 4-7 are patentable over Traxler et al.

Claims 13-15 having Allowable Subject Matter

The Office Action noted that claims 13-15 would be allowable if rewritten into independent form including all of the limitations of the base claim and any intervening claims. The claims have been amended and hence should be allowable.

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Conclusion

Claims 1-8 and 10-16 are clearly patentable over the cited references. Reconsideration and allowance of the claims is respectfully requested.

Respectfully submitted,

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Enclosure: Petition, fee, Disclaimer

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